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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,590	04/12/2004	Phillippe Charas	P11000-US3	3551
27045	7590	03/28/2008	EXAMINER	
ERICSSON INC. 6300 LEGACY DRIVE M/S EVR 1-C-11 PLANO, TX 75024			PHAN, MAN U	
			ART UNIT	PAPER NUMBER
			2619	
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			03/28/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/822,590	<b>Applicant(s)</b> CHARAS ET AL.	
	<b>Examiner</b> Man Phan	<b>Art Unit</b> 2619	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***DETAILED ACTION***

1. The application of Charas et al. for a "Packet pipe architecture for access networks" filed 04/12/2004 has been examined. This application is a continuation of 09/438,225 filed 11/12/1999 is now US Patent # 6,747,986, which claims priority from provisional application 60/109,899 filed 11/25/1998. Claim 1-31 are pending in the application.

2. The applicant should use this period for response to thoroughly and very closely proof read and review the whole of the application for correct correlation between reference numerals in the textual portion of the Specification and Drawings along with any minor spelling errors, general typographical errors, accuracy, assurance of proper use for Trademarks <sup>TM</sup>, and other legal symbols @, where required, and clarity of meaning in the Specification, Drawings, and specifically the claims (i.e., provide proper antecedent basis for "the" and "said" within each claim). Minor typographical errors could render a Patent unenforceable and so the applicant is strongly encouraged to aid in this endeavor.

***Specification***

**3. Related Applications need to be updated.**

The disclosure is objected to because of the following informalities: Under cross references to related applications, the continuation application status needs to be included. Furthermore, this application is a continuation of 09/438,225 filed 11/12/1999 is now US Patent # 6,747,986. Appropriate correction is required.

***Drawings***

4. The drawings are objected to under 37 CFR 1.83(a) because they fail to show “*a communications traffic conveyor*” as claimed. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR

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1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

6. Claim 20 is objected to because of the following informalities: On line 1: “The system of claim 18” should change to –The system of claim 19--.

Claims 23, 24 are objected to because of the following informalities: On line 1: “The system of claim 21” should change to –The system of claim 22--.

Claim 28 is objected to because of the following informalities: On line 1: “The system of claim 26” should change to –The system of claim 27--.

Claim 31 is objected to because of the following informalities: On line 1: “The system according to claim 29” should change to –The system according to claim 30--.

Claims 28, 29 are objected to because of the following informalities: these claims are described as method claims while depend on system claims.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112, first paragraph***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 1-31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant

art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claims 1-31, the limitation “*a communications traffic conveyor*” has no support in the original specification.

***Claim Rejections - 35 USC ' 112, second paragraph***

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 5, 10 recite limitations "said first standardization parameter" in line 1, "said second standardization parameter" in line 2. There is insufficient antecedent basis for these limitations in the claims.

11. Claims 3-5, 8-10 recite the limitations “*standardization parameter*”, “*first Quality of Service parameter*” and “*second Quality of Service parameter*”. It is not clear as they are the same or different parameters.

In order to avoid piecemeal examination and to give the Applicant a better appreciation for relevant prior art, the Examiner will understand that these “*parameters*” are the same indication. See, e.g., *Ex parte Ionescu*, 222 USPQ 537 (Bd. App. 1984) and MPEP 2173.06.

***Double Patenting***

12. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed.

Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970), and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

13. Claims 1-31 of the present application Serial No. 10/822,590 (hereinafter Application '590) rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 of U.S. patent No. 6,747,986 (hereinafter patent '986) and claims 1-19 of U.S. Patent No. 6,880,009 (hereinafter patent '009) since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The claims are identical in functionalities and they are not patentably distinct from each other because the subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent, since the patent and the application are claiming common subject matter. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims are equivalent in scope and embodiment. The language of the two claims is substantially identical and is equivalent in functioning. All of the structural elements of the patent claims are present in the pending claims, defined with either identical or equivalent

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language. Additionally, the functional language, scope and embodiment reflects identical operation, purpose, application, and environment.

With respect to the specific limitations, the pending claims 6-10, 19-31 of Application '590 are equivalent to the claims 1-11 of patent '986 and claims 1-12 of patent '009 for a packet pipe architecture to convey packet data traffic in access network. Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. Since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

#### ***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The Charas (US#2003/0206533) show the terminal and repository in a tele. system.

The Charas (US#7,054,843) is cited to show the method and apparatus in a tele. system.

The Hoo et al. (US#5,794,149) show the base station controlled handoff method appa.

The Smolik (US#6,381,455) is cited to show the system and method for warning of and providing greater immunity from an impending call drop in a digital wireless system.

The Bychowsky et al. (US#6,856,628) is cited to show the method and apparatus for tunneling packets in a packet data system.

The Proctor et al. (US#6,125,110) is cited to show the method and system for determining a packet transmission order.

The De Trana et al. (US#6,275,578) is cited to show the method and apparatus for providing back up, in band signaling in a communications network.



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15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Phan whose telephone number is (571) 272-3149. The examiner can normally be reached on Mon - Fri from 6:00 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel, can be reached on (571) 272-2988. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2600.

16. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at toll free 1-866-217-9197.

Mphan

04/11/2006.

/Man Phan/

Primary Examiner, Art Unit 2619